

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

VARIAN SCOTT,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

CRIMINAL ACTION

1:08-CR-495-CAP-AJB-02

CIVIL ACTION

NO. 1:11-CV-874-CAP

O R D E R

This action is before the court on the report and recommendation of the magistrate judge [Doc. No. 167] and the objections thereto [Doc. No. 168].

The magistrate judge applied the proper standard in analyzing the ineffective assistance claims, and this court agrees with the findings. In his objections, Movant simply reiterates his allegations of shortcomings by defense counsel and repeatedly points out that defense counsel has not disputed his claims. Because the court finds that defense counsel rendered effective assistance of counsel and because there is no requirement for defense counsel to respond to the motion to vacate, the court finds no basis for § 2255 relief on the ineffective assistance of counsel claims.

The final claim, that the court violated Movant's constitutional rights by imposing a sentence beyond the statutory maximum, was also found to be without merit by the magistrate

judge. This finding was based on the 12-year sentence imposed when there was total potential sentence of 210 years. This court agrees with the magistrate judge's analysis. Movant filed no objection to this finding.

Based on the foregoing, the court receives the R&R with approval and ADOPTS it as the opinion and order of this court.

SO ORDERED, this 9<sup>th</sup> day of November, 2011.

/s/ Charles A. Pannell, Jr.  
CHARLES A. PANNELL, JR.  
United States District Judge